

Attorneys for Plaintiff

CLEAN FLICKS MEDIA, INC., a Utah corporation,

VS.

Defendant.

Case No.:

Judge:

COMPLAINT - 1

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a) because there are federal questions. The common law claim is therefore within this Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

2. Plaintiff Clean Flicks Media, Inc. ("Clean Flicks" or "Plaintiff") is a Utah corporation with its principal place of business in Pleasant Grove, Utah. As used in this Complaint, Clean Flicks shall refer to Clean Flicks Media, Inc. and to any predecessor, subsidiary, and affiliated entity.

3. Defendant Daniel Dean Thompson is a resident of the state of Utah.

4. This Court is the proper venue for this action under 28 U.S.C. § 1391(a) because Defendant resides in this judicial district or conducts or transacts business in this judicial district, the events or omissions giving rise to this action occurred in this judicial district, and property that is the subject of this action is situated in this judicial district.

NATURE OF CLAIMS

Since 2000, Plaintiff has been engaged in the commercial entertainment distribution industry. Plaintiff formerly sold and rented edited movies. Plaintiff currently rents unedited movies via an online business.

Until recently, Defendant sold and rented edited movies.

This case is about Defendant falsely representing himself to be a founder, owner, franchisee, or dealer of Clean Flicks or otherwise affiliated with Clean Flicks.

a. Federal statutory causes of action.

Plaintiff Clean Flicks has federal Trademark Act claims against Defendant for infringing Plaintiff's registered "CleanFlicks" trademarks for which Plaintiff seeks injunctive relief, statutory damages for willful infringement, interest, costs and attorney's fees.

Plaintiff Clean Flicks has a Lanham Act false designation of origin against Defendant for holding himself out as a founder, owner, franchisee or dealer of Clean Flicks, "CleanFlicks", or "Clean Flix", for which Plaintiff seeks injunctive relief, Defendant's profits, Clean Flick's damages and costs, interest, and its attorney's fees.

Plaintiff Clean Flicks has a Cyberpiracy Prevention Act claim against Defendant for wrongfully registering and using the misleading www.myspace.com/cleanflicks for which Plaintiff seeks injunctive relief, its damages, costs, interest, and attorney's fees.

b. Common law cause of action. Plaintiff has claims for tortious interference with business relationships against Defendant for soliciting and contracting with Plaintiff's customers by improper means, for which Plaintiff seeks damages, including punitive damages.

GENERAL ALLEGATIONS

1. Plaintiff Clean Flicks Media, Inc. was incorporated in Utah in January 2004.
2. Plaintiff Clean Flicks Media, Inc.'s predecessor, Clean Flicks, LLC, was registered in Utah in September 2000.
3. Ray Lines, co-owner of Plaintiff Clean Flicks registered the cleanflicks.com domain name 8 August 2001.

4. Plaintiff Clean Flicks is the owner of two federally-registered “CleanFlicks” trademarks (Reg. Nos. 2507259 and 2507260) and the associated good will. The marks were both registered 13 November 2001.

5. Plaintiff Clean Flicks was formerly in the business of producing, renting, and selling edited versions of commercial movies. It is still in the business of renting unedited commercial movies, and has retooled its www.cleanflicks.com website to reopen its online DVD rental business for unedited DVD’s under the name CLEANFLICKS.

6. Upon information and belief, on or about 2005, Defendant registered on MySpace.com as “cleanflicks” and held himself out as affiliated with Clean Flicks.

7. At no time was Defendant ever a founder, owner, franchisee or dealer of or otherwise affiliated with Clean Flicks.

8. At no time has Clean Flicks transferred to, assigned to, or authorized Defendant’s use of its CLEANFLICKS trademarks, corporate identity, or good will.

9. Upon information and belief, Defendant is not authorized to do business in Utah under any registered entity, including “Clean Flicks”, “Clean Flix”, or “Flix Club”.

10. Since on or about 4 December 2007, numerous news stories have appeared identifying Defendant as “CleanFlicks Founder”, “co-founder of CleanFlicks”, “Former ‘Clean Flix’ owner”, “the owner of ‘Clean Flix’, the company that edited R-rated movies and was recently closed down by Hollywood lawyers”, “a former Clean Flicks franchisee”, “a franchise operator for Clean Flicks”, a man who “used to own four Clean Flicks franchises”, a man who “at one time ran a successful Clean Flicks store”, a man who “formerly operated Clean Flix – a

business in Orem that edited feature films to remove or alter content deemed inappropriate for children”, and “a former dealer of edited movies with CleanFlicks”. Each of these statements is false.

FIRST CAUSE OF ACTION
Trademark Act Violation – (15 U.S.C. §§ 1114, 1116, 1117)

11. Plaintiff incorporates by reference all preceding and subsequent paragraphs and allegations of this Complaint as though fully set forth herein.

12. Beginning not later than December 2007, Defendant used Plaintiff’s CLEANFLICKS trademark (or the confusingly similar CLEAN FLICKS or CLEAN FLIX) without Plaintiff’s permission to market DVDs in Orem, Utah.

13. As a result of Defendant’s trademark violation, Plaintiff Clean Flicks is entitled to injunctive relief, impoundment and disposition of infringing material, statutory damages for willful infringement and its attorney’s fees and costs.

WHEREFORE, Plaintiff requests the relief as described below.

SECOND CAUSE OF ACTION
False Designations of Origin, Dilution (15 U.S.C. § 1125(a))

14. Plaintiff incorporates by reference all preceding and subsequent paragraphs and allegations of this Complaint as though fully set forth herein.

15. Beginning not later than December 2007, Defendant deceptively used www.myspace.com/cleanflicks and used the trademark CLEANFLICKS (or the confusingly similar CLEAN FLICKS or CLEAN FLIX), falsely passing himself off as Plaintiff Clean Flicks or as affiliated with Plaintiff Clean Flicks, all without Plaintiff’s authorization.

16. Upon information and belief, on or about 2007, Defendant falsely designated inventory he purchased and resold under the name “CLEANFLICKS”.

17. Defendant’s actions have diluted Plaintiff’s trademark and as a result Plaintiff Clean Flicks is damaged and is likely to be further damaged. Plaintiff is therefore entitled to injunctive relief, Defendant’s profits and Plaintiff’s damages, plus interest and costs, in an amount to be proven at trial, and to its attorney’s fees.

WHEREFORE, Plaintiff requests the relief as described below.

**THIRD CAUSE OF ACTION
Cyberpiracy Prevention Act (15 U.S.C. § 1125(d)(1))**

18. Plaintiff incorporates by reference all preceding and subsequent paragraphs and allegations of this Complaint as though fully set forth herein.

19. Upon information and belief, Defendant has or had a bad faith intent to wrongfully and personally profit from Plaintiff’s registered CLEANFLICKS service mark and, having no connection with Plaintiff or its mark, wrongfully registered and used the confusingly similar www.myspace.com/cleanflicks.

20. As a result of Defendant’s unauthorized registration and use of the confusingly similar www.myspace.com/cleanflicks Plaintiff Clean Flicks is damaged and will continue to be damaged. Therefore Plaintiff is entitled to injunctive relief, to an order transferring the domain name to Plaintiff, and to recover against Defendant statutory damages, plus interest and costs in an amount to be proven at trial, and to its attorney’s fees.

WHEREFORE, Plaintiff requests the relief as described below.

FOURTH CAUSE OF ACTION
Tortious interference with existing and prospective economic relations

21. Plaintiff incorporates by reference all preceding and subsequent paragraphs and allegations of this Complaint as though fully set forth herein.

22. Defendant's violations of the Trademark Act, the Lanham Act, Cyberpiracy Prevention Act, and Defendant's fraud constitute intentional interference with Plaintiff Clean Flick's existing and potential economic relations, for an improper purpose (namely, to appropriate Plaintiff Clean Flick's customers) or by improper means (namely, the violations of statutory and common law as described), and have caused injury to Plaintiff Clean Flicks.

23. In all this, Defendant's actions in violation of Plaintiff's rights were willful and wanton.

24. As a result of Defendant's tortious interference, Plaintiff Flicks is entitled to recover damages against Defendant in an amount to be proven at trial, together with punitive damages, plus interest and costs, and its attorney's fees.

WHEREFORE, Plaintiffs request the relief as described below.

PRAYER

WHEREFORE, Plaintiff respectfully requests the following relief:

FIRST CAUSE OF ACTION
Trademark Act Violation – (15 U.S.C. §§ 1114, 1116, 1117)

Injunctive relief, statutory damages of \$1,000,000.00 for willful use of a counterfeit mark under 15 U.S.C. § 1117(c)(2), impoundment and disposition of infringing material, costs, interest, and attorney fees.

SECOND CAUSE OF ACTION
False Designation of Origin, Dilution (15 U.S.C. § 1125(a))

Injunctive relief, Defendant's profits, Plaintiff's damages, plus interest and costs, in an amount to be determined at trial, and attorney's fees.

THIRD CAUSE OF ACTION
Cyberpiracy Prevention Act (15 U.S.C. § 1125(d)(1))

Injunctive relief, an order transferring the domain name clean-flicks.com to Plaintiff, statutory damages in the amount of \$100,000.00, plus interest and costs, in an amount to be determined at trial, and attorney's fees.

FOURTH CAUSE OF ACTION
Tortious Interference

Damages against the Defendant in an amount to be determined at trial, together with punitive damages, plus interests and costs and attorney's fees.

JURY TRIAL DEMANDED

Plaintiff demands that all issues triable by a jury be so tried.

RESPECTFULLY submitted this 1st day of February, 2008.

FILLMORE SPENCER LLC

/s/

By: Barnard N. Madsen
Matthew R. Howell

Attorneys for Plaintiff Clean Flicks Media, Inc.

Plaintiff's address:
P.O. Box 230
Pleasant Grove, UT 84062

VERIFICATION

STATE OF UTAH

§

COUNTY OF UTAH

Allan L. Erb, being duly sworn, deposes and says: That he is an owner of Clean Flicks Media, Inc.; that he has read the foregoing Verified Complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

/s/

Allan L. Erb

SUBSCRIBED AND SWORN TO before me this 1st day of February, 2008.

/s/ Beverly A. Royer

Notary Public

3301 N. University Avenue

Provo, UT 84604

Utah Commission No. 568503

My Commission Expires 03/01/2011